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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Implementation of the Local Competition)
Provisions in the Telecommunications Act)
of 1996)
)
Interconnection between Local Exchange)
Carriers and Commercial Mobile Radio)
Service Providers)

CC Docket No. 96-98

CC Docket No. 95-185

**PETITION FOR PARTIAL RECONSIDERATION OF
CONSOLIDATED COMMUNICATIONS TELECOM SERVICES INC.**

I. INTRODUCTION

Consolidated Communications Telecom Services Inc. (CCTS) provides long distance services on an interstate basis and on an intrastate basis in 48 states. CCTS is authorized on both a facilities-basis and as a reseller in Illinois to provide local exchange services in competition with the incumbent provider. It has applied for similar authority in Missouri and Indiana. Currently, CCTS is negotiating interconnection agreements with several incumbent local exchange companies. Since May 1996, CCTS has been competing on an unbundled loop basis with Ameritech in Illinois.

CCTS strongly supports the overall thrust of the Commission's Rules. CCTS files this motion for reconsideration on two points in the Commission's First Report and Order in the above-captioned dockets, FCC 96-325, released August 8, 1996, which it believes are critical to

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the fulfillment of the Commission's intent to accomplish the purpose of the Telecommunications Act of 1996.¹ First, CCTS believes that it is essential that the Commission recognize and adopt the common sense rule that in no case should the price of unbundled elements obtained from a LEC be greater when combined than the resale price for the service offered. A failure to adopt such a rule could have the perverse affect of discouraging facilities-based competition which undoubtedly provides the greatest chance of real competition to incumbent LECs.

Second, CCTS believes that the Commission must make clear that incumbent LECs must provide service to CLECs on the same service interval basis as the LEC provides itself. A rule that simply requires the LEC to meet the same service standard with a CLEC as the LEC provides to noncompeting carriers that compete with each other but not with the LEC, such as IXC's, does not take into account the ability of the LEC to undermine the competitiveness of a CLEC by preventing it from being able to provide service in as timely a manner as the LEC, can for itself solely because of LEC action.

II. THE COMMISSION SHOULD ADOPT AN IMPUTATION RULE THAT APPLIES TO UNBUNDLED ELEMENTS AND RESOLD SERVICES

The Commission in its Order references the rule adopted by the Illinois Commerce Commission² and other Commissions which impose an imputation rule on a LEC's pricing of unbundled elements.³ By use of this common sense rule the state commissions have sought to

¹ The Communications Act of 1934 as amended by the Telecommunications Act of 1996.

² Illinois Bell Telephone Company, Docket 94-0096 at pg. 60 (April 7, 1995).

³ Order at ¶¶ 848-850.

prevent LECs from undermining competition by charging CLECs prices for unbundled elements, which when combined exceed the LEC's retail price for the service to be provided. In the Order, the FCC declined to impose an imputation rule and instead left the issue of the use of an imputation rule to the state commissions.⁴

Given the adoption of a proxy rate of 17 to 25% for the avoided cost of retail services, unless the Commission affirmatively imposes an imputation rule that limits the combined price of the unbundled elements to no more than the wholesale price for the resale services, the Commission will be in the perverse situation of encouraging resale while discouraging facilities-based competition. If a CLEC must pay more for unbundled elements than it would to obtain the service for resale, it is unlikely to construct a facilities-based network. Since real competition is dependent upon the existence of facilities-based competitors, the failure of the Order to endorse such a rule should be corrected.

III. THE COMMISSION SHOULD IMPOSE A REQUIREMENT ON LECS TO PROVIDE SERVICE AT THE SAME SERVICE INTERVALS AS THE LEC PROVIDES IT'S CUSTOMERS

The Commission has required that LECs provide service to CLECs in switching customers at the same interval as LECs currently switch end users between interexchange carriers.⁵ While recognizing the vital importance to CLECs of promptly initiating service for new customers, the Commission's solution falls short of the goal.

⁴ Order at ¶ 850.

⁵ Order at ¶ 421.

While requiring that LECs provide service to CLECs on the same basis as the LEC provides service to an IXC, the FCC has unintentionally provided the LEC with an opportunity to interfere with the CLECs initial contact with its new customers. While a rule that requires the LEC to treat all IXCs equally provides a level playing field for IXCs in their competition with one another, it does nothing to ensure that the LEC and the CLEC receive the same level of service. While it may make little difference if the LEC takes five days to switch a customer from AT&T to MCI and vice versa, it would be devastating for a CLEC to receive the same 5 day service from the LEC in switching a customer to the CLEC while the LEC is in a position to initiate service for its customers on a one day basis.

This issue while significant to CLECs can be readily addressed by the Commission by simply requiring that the incumbent LECs switch over customers for local service in the same interval they would initiate service to that customer. Such a rule would ensure that the playing field is level for the LEC and CLEC, not the CLEC and the IXC.

CONCLUSION

The Commission has done an excellent job of implementing Congress' procompetitive intent. The Commission should, however, address the concerns raised by CCTS to eliminate two of those details in which the devil may lurk.

Respectfully submitted,



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I hereby certify that on this 30th day of September 1996 copies of a Petition For Partial Reconsideration of Consolidated Communications Telecom Services Inc. were served on the attached service list by first class mail, postage prepaid.



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Beehive Telephone Company, Inc.

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**Consolidated Edison Company of
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